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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 180209155-8589-02; RTID 0648-XP005]

**International Fisheries; Western and Central Pacific Fisheries
for Highly Migratory Species; Limited Reopening of the 2019 U.S.
Pelagic Longline Fishery for Bigeye Tuna in the Western and
Central Pacific Ocean**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery reopening; fishery closure; request for comments.

SUMMARY: NMFS is temporarily reopening the 2019 U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean (WCPO) for five days because the fishery did not catch the entire 3,554 metric ton (t) limit. This action is intended to allow the fishery to access the remainder of the available limit.

DATES: The U.S. longline fishery for bigeye tuna reopens at 12:01 a.m. local time on December 23, 2019, until 11:59 p.m. local time on December 27, 2019. NMFS must receive comments by *[insert 30 days after date of publication in the FEDERAL REGISTER]*.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808-725-5176.

SUPPLEMENTARY INFORMATION: Pursuant to regulations implemented under the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. 6901 *et seq.*, NMFS established an annual limit of 3,554 t of bigeye tuna for U.S. longline vessels fishing in the Convention Area (83 FR 33851, July 18, 2018, codified at 50 CFR 300.224). The limit applies only to U.S. vessels, but does not apply to U.S. vessels operating as part of the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands (CNMI). Regulations at 50 CFR 300.224(b), (c), and (d) detail the manner in which longline-caught bigeye tuna is attributed among the fisheries of the United States and the U.S. Participating Territories.

NMFS monitored catches of longline-caught bigeye tuna using logbook data submitted by vessel captains and other available information, and determined that the 3,554 t catch limit for 2019 would be reached by July 27, 2019. In accordance with 50 CFR 300.224(e), NMFS closed the U.S. longline fishery for bigeye tuna in the Convention Area through a temporary rule effective on July 27, 2019 through December 31, 2019 (84 FR 35568; July 24, 2019). The closure does not apply to vessels operating as part of the longline fisheries of American Samoa, Guam, or the CNMI, including vessels identified in a valid specified fishing

agreement under 50 CFR 665.819(c), in accordance with 50 CFR 300.224(f) (1) (iv) .

NMFS also specified a 2019 limit of 2,000 t of longline-caught bigeye tuna for each of the U.S. territories (American Samoa, Guam, and the CNMI) (84 FR 34321, July 18, 2019) . That rule allows each territory to allocate up to 1,000 t to U.S. longline vessels identified in a valid specified fishing agreement.

On August 1, 2019, NMFS announced a valid specified fishing agreement between the CNMI and the Hawaii Longline Association (HLA) (84 FR 37592) . In accordance with procedures in 50 CFR 300.224(d) and 50 CFR 665.819(c) (9) , NMFS began attributing bigeye tuna caught by vessels identified in the CNMI/HLA agreement to the CNMI beginning on July 20, 2019. NMFS forecasted that the fishery would reach the CNMI allocation limit by November 4, 2019, and closed the fishery on that date (84 FR 57827, October 29, 2019) .

On October 28, 2019, NMFS announced a valid specified fishing agreement between American Samoa and HLA, and began attributing bigeye tuna caught by vessels identified in the agreement to American Samoa starting on that date (84 FR 57652) . NMFS forecasts that the fishery will reach the American Samoa allocation limit by December 22, 2019, and will stop attributing on that date.

Since NMFS closed the U.S. longline fishery in July 2019, NMFS has subsequently determined that the fishery caught and retained only 3,456 t of the 3,554 t limit while it was open from January through July 26, leaving 98 t available for catch and retention. Based on average bigeye tuna catch rates by the U.S. longline fishery in the month of December in calendar years 2012 to 2018, we estimate that the fishery could catch 98 t in five calendar days. Accordingly, this rule reopens the fishery for five days, after which, the closure published on July 24, 2019 (84 FR 35568), will again, take effect through December 31, 2019.

To prevent a disruption to the continuity of fishing operations, the reopening will begin the day after the date that NMFS stops attributing catch to American Samoa. All fishing under the remaining 98 t limit must be done in accordance with the regulations at 50 CFR 300.224 and any other applicable regulations.

Classification

There is good cause under 5 U.S.C. 553(b) (B) to waive prior notice and opportunity for public comment on this action. Compliance with the notice and comment requirement would be unnecessary and contrary to the public interest. Because the fishery closure on July 27, 2019 was based upon estimated landings, this action simply provides an opportunity to harvest

unused catch that remains available in 2019. The action is a benefit to fishermen since they would not be able to access the fishery after December 22, 2019. Moreover, NMFS solicited and responded to public comments on the rule establishing the calendar year bigeye tuna catch limit of 3,554 t (83 FR 33851, July 18, 2018). Although this action is being implemented without the opportunity for prior notice and comment, NMFS is soliciting and will respond to public comments from those affected by or otherwise interested in this rule.

Additionally, NMFS has determined that good cause exists to waive the 30-day delay in effectiveness of this rule because, under 5 U.S.C. 553(d), this rule relieves a restriction on the regulated community, and requiring a 30-day delay would be contrary to the public interest. NMFS closed the U.S. longline fishery for bigeye tuna in the Convention Area through a temporary rule effective on July 27, 2019, through December 31, 2019. The closure does not apply to vessels operating identified in a valid specified fishing agreement under 50 CFR 665.819(c), in accordance with 50 CFR 300.224(f)(1)(iv).

Currently, vessels in the U.S. longline fishery are operating under a valid specified fishing agreement between American Samoa and HLA, which allocates 1,000 t of bigeye tuna to vessel identified in the agreement. NMFS forecasts that the fishery will reach the American Samoa allocation limit by

December 22, 2019, and will stop attributing bigeye tuna to American Samoa on that date. If the effectiveness of this rule is delayed, the fishery would once again, be subject to the July 27, 2019 closure through December 31, 2019, and would be unable to access the remainder of the available 2019 bigeye tuna limit. Because this rule relieves a restriction by temporarily reopening the fishery for bigeye tuna, it is not subject to the 30-day delayed effectiveness pursuant to 5 U.S.C. 553(d)(1).

This action is taken under 50 CFR 300.224(e) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: December 10, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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